

Appl. No. : **09/787,784**
Filed : **July 30, 2001**

REMARKS

This communication is in response to the fourth Office Action addressing patentability of the application filed July 30, 2001. According to the headnote for MPEP 706:

The goal of examination is to clearly articulate any rejection early in the prosecution process so that the applicant has the opportunity to provide evidence of patentability and otherwise reply completely at the earliest opportunity.

Instead, the Examiner has repeatedly cited new prior art, such that Applicant's attempts to provide evidence of patentability are rendered moot. Applicant respectfully submits that because the application was filed almost six years ago, the USPTO should have had sufficient time to discover all prior art.

In the outstanding Office Action, the Examiner has rejected Claims 9-30. Reconsideration and allowance of all Claims 9-30 in light of the present remarks is respectfully requested.

Discussion of Rejections Under 35 U.S.C. § 103

The Examiner has rejected Claims 9-30 under 35 U.S.C. § 103 as being unpatentable over Ginter (US 5,892,900).

Ginter discloses "systems and methods for electronic commerce including secure transaction management and electronic rights protection." (see abstract). The sections of the patent referenced by the Examiner (col 67 ln 48 – col 68 ln 27, col 118 ln 25-40, and fig. 62) discusses a secure processing unit (SPU) which "includes both a symmetric key encryption/decryption circuit ... and an antisymmetric circuit." (col 68 ln 2-6) Also found in the referenced portion is a discussion of virtual paging, where "load modules can be broken up into separate components..., only one of which must be loaded for simple load modules to execute."

Ginter, however, does not disclose all of the elements of Claim 9. For example, Ginter does not disclose a sender facility with a first encryption module configured to encrypt data for an intended recipient, wherein a first encrypted part and a remaining encrypted part are produced, the first encrypted part carrying information for decryption of the remaining encrypted part such that the remaining encrypted part can be decrypted only after decrypting the first encrypted part.

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The Examiner states that "Ginter does not use precisely the same terminology as the instant application e.g. public and private key rather than first and second encryption module, however, it would be obvious to adapt Ginter to obtain the instant application by renaming and setting a specific number of "splits" in data to make it practical and economical." Applicant respectfully submits that one of ordinary skill in the art would not consider an encryption module and a public or private key as interchangeable terminology. An encryption module configured to encrypt data can be, for example, hardware or software configured to encrypt data. A public or private key is data used by an encryption/decryption algorithm.

Furthermore, even considering the possibility of interchangeable terminology, Applicant was unable to find within Ginter a sender facility having a second encryption module, a combiner, or a first transmitter as claimed. Applicant was further unable to find within Ginter a receiver facility with a receiver, a splitter, or a command module as claimed. Further, Applicant was unable to find within Ginter a key facility with a first decryption module, or a second transmitter.

Accordingly, Applicant respectfully submits that Claim 9 is patentable over Ginter. Similarly, Applicant respectfully submits that Claims 18, and 27-30 are also patentable over Ginter for reasons similar to those discussed with regard to Claim 9.

Furthermore, applicant does not necessarily agree with the characterization of Ginter with regard to the dependent claims, but submits that Claims 10-17, and 19-26 are also patentable over Ginter because of the limitations which they each inherit from the independent claim from which they each depend as well as their own limitations.

Conclusion

Applicant has endeavored to address all of the Examiner's concerns as expressed in the outstanding Office Action. In light of these amendments and remarks, reconsideration and withdrawal of the outstanding rejections is respectfully requested.


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Please charge any additional fees, including any fees for additional extension of time, or credit overpayment to Deposit Account No. 11-1410.

Respectfully submitted,

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Dated: 4/19/07

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